

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/ES2004/000573	International filing date (<i>day/month/year</i>) 22.12.2004	Priority date (<i>day/month/year</i>) 22.12.2003
International Patent Classification (IPC) or national classification and IPC E03D1/14		
Applicant BLANCO GUTIERREZ, José		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of _____ sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 20 sheets, as follows: <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/ES	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/ES2004/000573

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages _____ as originally filed/furnished
- pages* 1-15 received by this Authority on 13.07.2005
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 16, 17 received by this Authority on 13.07.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets _____ as originally filed/furnished
- sheets* 1/3-3/3 received by this Authority on 17.07.2005
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☒ The amendments have resulted in the cancellation of:
- ☒ the description, pages 1-14
- ☒ the claims, nos. 1-5
- ☒ the drawings, sheets/figs 1/3-3/3
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/ES2004/000573

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	<u>1-4</u>	YES
	Claims		NO
Inventive step (IS)	Claims	<u>1-4</u>	YES
	Claims		NO
Industrial applicability (IA)	Claims	<u>1-4</u>	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
Documents taken into consideration:			
D1: DE 41 13 497 A1 (29 October 1992)			
D2: US 4 817 216 A (04 April 1989)			
The objections raised in the written opinion have been dispelled by the new set of claims subsequently filed.			
Firstly, the word "intermittent" has been replaced with "variable", thereby correcting the defect and the possible lack of clarity. The functional features present in claim 1 have also been deleted and as a result, the restrictions that said claim was meant to include are now clear.			
Furthermore, the lack of inventive step of the independent claims has been overcome.			
As regards independent device claim 1, technical features of the invention set forth in claim 2 of the application as originally filed have been added to claim 1. These features are not found in any prior art document and they do involve an inventive step. In combination with the			

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/ES2004/000573

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

above-mentioned clarification of the drafting of the claim, involving a separation between the technical features and the operation of the device, this means that the cited documents merely show the general prior art and are not considered to be particularly relevant. As a result, the invention claimed in said claim is considered to comply with the requirements of novelty, inventive step and industrial applicability.

Claims 2 and 3 are dependent on claim 1 and thus also comply with the requirements of novelty and inventive step of the PCT.

As regards claim 4 (claim 5 in the application as originally filed), the formal defects that were present in said claim have been corrected and a characterising part has been added that contains the operation-related technical feature that had not been claimed even though it was present in the application as originally filed. Therefore, the invention claimed in this claim relating to the method for operating the device is also considered to comply with the requirements of novelty, inventive step and industrial applicability.